

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**BRYNN RODGERS,
APPELLANT
vs.**

**CITY OF NORTH KANSAS CITY, et al.,
RESPONDENTS**

DOCKET NUMBER WD72328

DATE: MARCH 8, 2011

Appeal from:

The Circuit Court of Clay County, Missouri
The Honorable Larry D. Harman, Judge

Appellate Judges:

Division Two: Karen King Mitchell, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

Attorneys:

Thomas W. Koelling, for Appellant

Timothy S. Frets, for Respondents City of North Kansas City, Donna Cash, Catherine Menninga,
Beverly Johnston

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

BRYNN RODGERS, APPELLANT

v.

CITY OF NORTH KANSAS CITY, et al., RESPONDENTS

WD72328

Circuit Court of Clay County, Missouri

Before Division Two: Karen King Mitchell, P.J., Joseph M. Ellis and Victor C. Howard, JJ.

Brynn Rodgers filed a petition against North Kansas City and three employees of North Kansas City Hospital alleging that she had been inappropriately touched by a male nurse. In her count against the city, Rodgers alleged that the city had prior knowledge of the nurse's proclivity for inappropriately touching female patients and allowed him to be alone with a female patient in a locked exam room. Rodgers claimed this constituted a dangerous condition of the city's property. Rodgers further claimed that the three hospital employees negligently hired, retained, and supervised the nurse. The trial court granted the city's motion for summary judgment, finding the circumstances described by Rodgers did not constitute a dangerous condition and thus, the city had not waived its sovereign immunity. The trial court also granted the summary judgment motion of the three employees. Rodgers appeals.

AFFIRMED.

Division Two holds:

- (1) Where Rodgers's alleged injuries resulted from the nurse's conduct and not from a physical defect of the city's property or a physical deficiency created by the positioning of various items of property, the facts alleged by Rodgers did not constitute a dangerous condition, and her claim was barred by sovereign immunity.
- (2) Where none of the three hospital employees directly treated Rodgers and their job responsibilities were for the benefit of the community as a whole, the employees owed a duty to the general public rather than to Rodgers in particular. Therefore, the public duty doctrine applied to the three employees and Rodgers could not maintain her negligence claims against them. The trial court did not err in granting summary judgment in favor of the employees.

Opinion by: Victor C. Howard, Judge

Date: March 8, 2011

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